

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LEWIS WARD #1625854 §
v. § CIVIL ACTION NO. 6:12cv834
ERMA DAVIS, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Lewis Ward, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Ward complained of an allegedly false disciplinary case which he received from Officer Erma Davis. He also complained about the hearing officer who heard the case and two counsel substitutes who represented him.

After review of the pleadings, the Magistrate Judge issued a Report recommending that Ward's *informa pauperis* status be revoked and that the lawsuit be dismissed. The Magistrate Judge observed that Ward had previously filed at least three lawsuits or appeals which had been dismissed as frivolous or for failure to state a claim upon which relief may be granted, rendering him subject to the bar of 28 U.S.C. §1915(g). The Magistrate Judge also noted that the U.S. District Court for the Western District of Texas had previously sanctioned Ward \$25.00 for filing frivolous lawsuits; these sanctions stipulated that Ward could not file any more lawsuits until the sanction was satisfied and he had received advance written permission from a judge of the forum court. Under General Order 94-6, the Magistrate Judge said, the Eastern District of Texas honors sanctions imposed by

other district courts within the State of Texas; hence, the sanctions imposed by the Western District of Texas are applicable to lawsuits filed by Ward in the Eastern District of Texas.

A copy of the Magistrate Judge's Report was sent to Ward at his last known address, return receipt requested, but no objections have been received; accordingly, Ward is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 13) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff Lewis Ward's *in forma pauperis* status is hereby REVOKED. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the statutory \$350.00 filing fee. Should Ward refile his lawsuit upon payment of the full filing fee, he must also show proof that he has satisfied the sanctions imposed by the Western District of Texas, and he must obtain written permission from a district judge or magistrate judge of the Eastern District of Texas. It is further

ORDERED that should the Plaintiff pay the full filing fee within 15 days after the date of entry of final judgment in this case, and show proof of the satisfaction of the sanctions, he shall be allowed to proceed in the lawsuit as through the full fee had been paid from the outset. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 18th day of April, 2013.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS". The signature is fluid and cursive, with a large loop on the left and a smaller loop on the right.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**